

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

JULIE A. SU, Acting Secretary of Labor, United States :  
Department of Labor<sup>1</sup>, :

Plaintiff, :

v. :

: Case No. 23-cv-1573 (VB)

SUNRISE HOME CARE INC and ELSA SILVA, :

Defendants. :

**CONSENT ORDER FOR PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel to the parties in the above-captioned action, who are authorized to enter into this Consent Order, and THEREFORE ORDERED that Defendants SUNRISE HOME CARE INC and ELSA SILVA, their officers, agents, employees, successors, and all persons acting or claiming to act in their behalf and interest are enjoined during the pendency of this litigation as follows:

1. Violating the provisions of section 15(a)(3) of the Fair Labor Standards Act ("FLSA");
2. Violating the provisions of section 11(a) of the FLSA;
3. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against the home health aides that perform work for Sunrise ("Sunrise HHAs" or "HHAs") in any other way, to prevent or otherwise dissuade any HHA from speaking with or participating in the Department's investigation or engaged in any other protected activity under the Act;

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<sup>1</sup> Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Acting Secretary of Labor Julie A. Su is automatically substituted as Plaintiff.

4. Terminating or threatening to terminate employment, blacklisting or threatening future employment, contacting immigration authorities or other law enforcement or threatening to contact law enforcement, withholding wages or threatening to withhold wages, reducing hours or threatening to reduce hours, intimidating, coercing, threatening, or retaliating or discriminating against Sunrise HHAs in any other way, based on Defendants' belief that any such HHA has participated in the Department's investigation or engaged in any other protected activity under the Act;
5. Obstructing and interfering with the Secretary's investigation of Defendants in any way;
6. Telling any Sunrise HHAs not to cooperate with the Secretary's representatives; instructing any HHAs to provide incomplete or false information to the Secretary's representatives; or questioning HHAs about their cooperation or communications with the Secretary's representatives;
7. Advising any current and former Sunrise HHAs that they must agree to return, or "kick back," to Defendants any back wages the Department may determine Defendants owe as a result of the investigation;
8. Communicating with any Sunrise HHA regarding the Secretary's investigation without first informing the HHA, in writing and in the HHA's primary language, that HHAs may communicate with the Secretary and his representatives voluntarily and free from coercion, and that HHAs cannot be discriminated against or retaliated against for communicating with the Secretary's representatives;
9. Terminating any HHA without providing at least seven days' notice to the Wage and Hour Division of the U.S. Department of Labor prior to any termination; and

**IT IS FURTHER ORDERED** that, to the extent not already done:

10. To the extent not already done so, Defendants shall allow representatives of the Secretary to read aloud in English, Spanish, Portuguese, and any other language as necessary to be understood by Sunrise HHAs, in the presence of Defendant Silva, the following statement to all HHAs who perform work for Sunrise, who shall be compensated at their regular rate for their attendance at this meeting:

**You are protected by the Fair Labor Standards Act and have the right to participate freely in the U.S. Department of Labor's investigation into Sunrise Home Care, Inc. and Elsa Silva practices. You have the right to speak freely with investigators, attorneys, or other officials from the Department of Labor. Sunrise Home Care, Elsa Silva, and any person acting on behalf of the company or Ms. Silva, are prohibited from retaliating against you in any way, including by threatening harm**

to you or your families, terminating you, reporting you to immigration, or threatening to do any of these things because you spoke with the Department of Labor.

In the event the Department of Labor's investigation results in a determination that an employer owes back wages to employees, those employees have a right to receive and keep the full amount of any back wages (after taxes) due to them. It is against the law for an Employer or any person acting on their behalf to ask for this money back or ask employees to give up their current or future wages to get money from the investigation. Employers may not require any worker who receives back wages from the Department to return or "kick back" those monies to the employer.

The U.S. District Court for the Southern District of New York has ordered Defendants Sunrise Home Care Inc. and Elsa Silva and anyone acting on their behalf to cease coercing, retaliating against, threatening to retaliate against, intimidating, or attempting to influence or in any way threatening current and former home health aides for providing information to the Department of Labor.

11. To the extent not already done so, Defendants shall mail a hard copy of the above statement, in English, Spanish, Portuguese and other language as necessary to be understood by Sunrise HHAs (to be provided by the Secretary's representatives), to all current and former employees at their last known addresses, along with contact information for representatives of the Secretary.

The parties acknowledge that this Consent Order is entered into voluntarily by the parties, and it shall not be deemed an admission by Defendants of any unlawful conduct alleged by the Secretary. The restrictions imposed by this Consent Order for Preliminary Injunction are ongoing and shall remain in full force and effect until otherwise ordered by this Court.

Dated: March 21, 2023

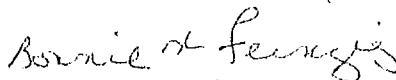
**CONSENTED TO BY:**

**For the Acting Secretary of Labor:**



Allison L. Bowles  
Senior Trial Attorney  
United States Department of Labor  
201 Varick Street, Room 983


**For Sunrise Home Care Inc. and Elsa Silva**




Bonnie N. Feinzig  
Hogan, Rossi & Liguori  
3 Starr Ridge Road – Suite 200  
Brewster, New York 10509

New York, NY 10014  
(646)264-3658


(845) 279-2986

  
Elsa Silva, individually

  
Elsa Silva, owner, Sunrise Home Care

**IT IS SO ORDERED:**

DATED: March 22,, 2023  
White Plains, New York

  
HONORABLE VINCENT BRICCETTI  
UNITED STATES DISTRICT JUDGE